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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,367	09/21/2001	Peter Hessler	Hessler 1-1-1-3	7867

7590 09/22/2005

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EXAMINER	
SOL, ANTHONY M	
ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/937,367	HESSLER ET AL.	
	Examiner	Art Unit	
	Anthony Sol	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 September 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-26,28-30,35-40* is/are rejected.

7)☒ Claim(s) *27,31-34 and 41* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

- Applicant's Preliminary Amendment filed 9/21/2001 is acknowledged.
- Claims 1-21 have been cancelled.
- Claims 22-41 have been added.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 22, 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,539,750 ("Kivi-Mannila").

Regarding claims 22, 36,

Kivi-Mannila discloses that the offset values of three consecutive new pointers (i.e. 3 X new_point) must be equal, otherwise the counter of the new pointer is reset (frame offset discontinuities). Kivi-Mannila further discloses that if an invalid pointer if received (alteration of a pointer value), the counter of the invalid pointer is incremented by one, otherwise the error counter is reset (Col. 8, lines 13-17).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 23, 35, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of ITU-T Recommendation G.803, XP-002112911 ("G.803").

Regarding claim 23 and 37,

Kivi-Mannila discloses a method and system that covers all the limitations of the parent claim.

Kivi-Mannila does not disclose that a discontinuity condition is signaled to an equipment management system.

G.803 discloses that connections may be directly monitored at one end of a connection by overwriting some portion of the original trail's overhead capacity at the beginning of the connection (Section 6.3, pg. 8, lines 1-2).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the detection capability of the frame offset discontinuities of Kivi-Mannila with the capability to signal the discontinuity condition to an equipment management system as taught in G.803 so that the difference between the states at each end of the tandem connection can be monitored (Section 6.2, pg. 8, lines 2-3, section 6.3, pg. 8, lines 3-4). One skilled in the art would have been

motivated to combine Kivi-Mannila with G.803 (collectively "Kivi-Mannila-G.803") to generate the claimed invention with a reasonable expectation of success.

5. Regarding claim 35,

Kivi-Mannila discloses a method that covers all the limitations of the parent claim.

Kivi-Mannila does not disclose that the first network element operates as a source network element and the second network element operates as a sink network element.

G. 803 shows in Fig. 5-1 LOPA source and LOPA sink network elements.

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the detection capability of the frame offset discontinuities of Kivi-Mannila with the designation of source and sink network elements as taught in G.803 to comply with the recommendations of the ITU. One skilled in the art would have been motivated to combine Kivi-Mannila with G.803 (collectively "Kivi-Mannila-G.803") to generate the claimed invention with a reasonable expectation of success.

6. Claims 24, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of G.803, and in further view of U.S. Patent No. 5,706,280 ("Kosugi").

Regarding claims 24 and 38,

Kivi-Mannila-G.803 discloses a method and system that covers all the limitations of the parent claim.

Kivi-Mannila-G.803 does not disclose that a signaled discontinuity condition is stored in a transmission quality report.

Kosugi discloses that the subsignaling information consists of various types of transmission quality monitoring data which are mapped in a prescribed data format (Col. 3, lines 43-45).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the signaled discontinuity condition information as taught by Kivi-Mannila-G.803 with the ability to store the information in a transmission quality report as taught by Kosugi so that the result is a significant improvement in the transmission quality monitoring service provided in the communications network (Abstract, lines 14-17). One skilled in the art would have been motivated to combine Kivi-Mannila-G.803 with Kosugi (collectively "Kivi-Mannila-G.803-Kosugi") to generate the claimed invention with a reasonable expectation of success.

7. Claims 25, 26, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of admitted Prior Art ("Prior Art").

Regarding claim 25 and 40,

Kivi-Mannila discloses a method that covers all the limitations of the parent claim.

Kivi-Mannila does not disclose that the discontinuity condition detected at the first network element is transmitted to the second network element.

The admitted Prior Art teaches that the transport of frame offset discontinuities through the network will be fast (Specification, Pg. 2, lines 5-6).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the discontinuity condition of Kivi-Mannila with the first network element transmitting the discontinuity condition to the second network element as taught by the Prior Art to reflect the real-life situation of misalignment of pointers. One skilled in the art would have been motivated to combine Kivi-Mannila with Prior Art (collectively "Kivi-Mannila-Prior Art") to generate the claimed invention with a reasonable expectation of success.

8. Regarding claim 26,

Kivi-Mannila-Prior Art discloses a method that covers all the limitations of the parent claim.

The Kivi-Mannila-Prior Art teaches that the frame start indication, i.e. the pointer at the tandem connection sink node, is not aligned with the actual phase of the virtual container. The Prior Art further teaches that there is no separate layer to transport the tandem connection information and that the path (virtual container) layer is used instead (Specification, Pg. 2, lines 8-16).

9. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of Prior Art, and in further view of G.803.

Regarding claim 28,

Kivi-Mannila-Prior Art discloses a method that covers all the limitations of the parent claim.

Kivi-Mannila-Prior Art does not disclose that a discontinuity condition is signaled from the second network element to an equipment management system.

G.803 discloses that connections may be directly monitored at one end of a connection by overwriting some portion of the original trail's overhead capacity at the beginning of the connection (Section 6.3, pg. 8, lines 1-2).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the detection capability of the frame offset discontinuities of Kivi-Mannila-Prior Art with the capability to signal the discontinuity condition to an equipment management system as taught in G.803 so that the difference between the states at each end of the tandem connection can be monitored (Section 6.2, pg. 8, lines 2-3, section 6.3, pg. 8, lines 3-4). One skilled in the art would have been motivated to combine Kivi-Mannila-Prior Art with G.803 (collectively "Kivi-Mannila-Prior Art-G.803") to generate the claimed invention with a reasonable expectation of success.

10. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of Prior Art, and in further view of G.803, and in further view of Kosugi.

Regarding claim 29,

Kivi-Mannila-Prior Art-G.803 discloses a method that covers all the limitations of the parent claim.

Kivi-Mannila-Prior Art-G.803 does not disclose that the signaled discontinuity condition information is stored in a transmission quality report.

Kosugi discloses that the subsignaling information consists of various types of transmission quality monitoring data which are mapped in a prescribed data format (Col. 3, lines 43-45).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the signaled discontinuity condition information as taught by Kivi-Mannila-Prior Art-G.803 with the ability to store the information in a transmission quality report as taught by Kosugi so that the result is a significant improvement in the transmission quality monitoring service provided in the communications network (Abstract, lines 14-17). One skilled in the art would have been motivated to combine Kivi-Mannila-Prior Art-G.803 with Kosugi (collectively "Kivi-Mannila-Prior Art-G.803-Kosugi") to generate the claimed invention with a reasonable expectation of success.

11. Claims 30 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kivi-Mannila in view of U.S. Patent No. 5,128,939 ("Takatori").

Regarding claim 30 and 39,

Kivi-Mannila discloses a method and system that covers all the limitations of the parent claim.

Kivi-Mannila does not disclose that after detection of a discontinuity condition, transmitted pointer values are altered stepwise at the first network element.

Takatori discloses that the phase difference between a relative phase of the data in the reception frame and a relative phase of the data in the transmission frame is detected before the setting of the pointer to the transmission frame, and then the value of the pointer for the transmission frame is set (Col. 6, lines 17-22).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention was made to combine the signaled discontinuity condition information as taught by Kivi-Mannila with the pointer value setting procedure as taught by Takatori so that the transmitted frame has the correct pointer value. One skilled in the art would have been motivated to combine Kivi-Mannila with Takatori (collectively "Kivi-Mannila-Takatori") to generate the claimed invention with a reasonable expectation of success.

Allowable Subject Matter

12. Claims 27, 31-34, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Sol whose telephone number is (571) 272-5949. The examiner can normally be reached on M-F 7:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9/14/2005

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